

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CHARLENE M. ALBRIGHT, JOHN :	ACTION UNDER THE FAIR
K. ALLEMAN, FRED ALTHOUSE, :	LABOR STANDARDS ACT FOR
DEWITT ARNOLD, DORAN :	UNPAID WAGES, OVERTIME
ARTMAN, BRIAN K. ASHBY, :	COMPENSATION, LIQUIDATED
CAROL A. BACHMAN, MICHAEL :	DAMAGES, ATTORNEY'S FEES,
L. BAKER, MICHAEL A. BARON, :	COSTS AND INJUNCTIVE
ROBERTA BARROW, MICHAEL :	RELIEF
BAUGHMAN, GREGORY W. :	
BEANER, LAWRENCE E. :	
BEANER, ANGELA NICOLE :	
BELL, MICHAEL BELL, JOHN :	
BENNETT, MARVIN BIRK, :	
BEVERLY BLOOM, ERIC :	
BOMBERGER, VICKIE BOWMAN, :	
JULIA ANN BOYD, MARGARET :	CIVIL ACTION NO.
L. BRADLEY, RICHARD BRANDT, :	
PHYLISS BREITEGAN, THOMAS :	
A. BRENDDEL, WILLIAM H. :	
BRENNEMAN, ANNE M. BROWN, :	
RANDY L. BROWN, EILEEN :	
BRYAN, DANA L. BYERS, :	
WILLIAM D. BYERS, KENNETH :	
S. CAMPBELL, LISA CAMPBELL, :	
EDELMIRO CANDELARIA, :	
GLENN R. CARPENTER, :	
CAROLYN S. CHAPMAN, :	
BARBARA KAY CICCARELLI, :	
JOHN H. COE, JR., DENNIS L. :	

COLE. SR, JOSEPH W. COOK, :  
DAWN COOKE, JOHN R. :  
COOPER, BRYAN CROMLEIGH, :  
JAMES CUMMINGS, JEFFREY :  
CUNNINGHAM, DONALD :  
DANIEL, LINDA D. DAVIS, JESSE :  
J. DELLEN, JR., GAYE M. :  
DENLINGER, JUDITH A. :  
DEWITSKY, RONALD B. :  
DEWITSKY, JOHN STEVEN :  
DRAGER, GARY C. EASTER- :  
WOOD, DIANNA C. ELDER, :  
LOIS ENGLEHART, JAMES P. :  
FARBO, JAMES L. FINEFROCK, :  
BRUCE C. FINK, JOHN G. :  
FLAHARTY, ROBERT L. :  
FLEMING, MARY E. FRITZ, :  
KENNETH E. FRY, JR., WILLIAM :  
J. FULLER, JR., KATHLEEN M. :  
GAGER, WENDELL S. GAINER, :  
RICKEY GARVIN, GREGORY R. :  
GERHART, LAURIE GERMER, :  
EDWARD A. GETTLER, SR., :  
SHIRLEY GILLS, ELOISE E. :  
GODWIN, RANDY L. GOODLING, :  
CONNIE J. GOSS, SUSAN GRAY- :  
BEAL, JOAN GREINER, DOUG- :  
LAS E. GRIESEMER, JR., SAMUEL :  
G. GROVE, JR., TIMOTHY :  
GRUBER, KENNETH J. GRUNOW, :  
J. RICHARD HABECKER, :  
THOMAS HACKMAN, ALVIN S. :  
HAKE, ARNOLD A. HAMMOND, :  
JOHN D. HARTMAN, JOANNE L. :  
HEILAND, TERRY HENRY, :  
FRANK D. HERR, GLENN E. :  
HERTZLER, JAMES D. HESS, :  
JOHN HOCKENBERRY, ROBERT :

M. HOCKING, PHILIP W. :  
HOFFMASTER, BARRY L. :  
HOGENTOGLER, BLAINE W. :  
HOLLAND, DOUGLAS L. :  
HOOVER, VICKI HOOVER, :  
RAYMOND E. HORVATH, :  
GEORGE W. HOY, BRYAN L. :  
HUNT, MICHAEL W. IRVIN, :  
MICHAEL R. JOHNSON, :  
CATHERINE KELLER, SAMSUK :  
KIM, LAMAR J. KOONS, :  
WILLIAM R. KOWALSKY, :  
WARREN R. KREISER, TODD M. :  
KULISHOFF, CLAUDE R. KURTZ, :  
MICHAEL KURTZ, EDWARD T. :  
KUZMA, JR., DOUGLAS :  
LAPIERRE, TONY LAUDEN- :  
SLAGER, DANIEL G. LITRENTA, :  
WILLIAM I. LONGABACH, FRED :  
LORAW, RICHARD LUDWIG, :  
RICHARD W. LOPRETTO, :  
CHARLES E. LUSK, CONSTANCE :  
M. MANCUSO, BARRY W. :  
MARKLEY, GREG MRATIN, :  
GEORGE McKINNEY, JR., SANDY :  
McKINSEY, BEN McMICHAEL, :  
PRISCILLA R. MENDEZ, ROBERT :  
MERINGER, CARL A. MET- :  
ZINGER, DENNIS L. MILLER, :  
GLENDA MILLER, STEVEN M. :  
MINNICH, FREDERICK L. :  
MIXELL, MARK T. MORGAN, :  
JR., DON MOWERY, JESSICA M. :  
NACE, BARBARA NEIDEIGH, :  
TINA M. NELSON, JOAN :  
NIKOLAUS, ELBIA T. NOLL, :  
GINA A. NOVACHEK-COMLY, :  
BETTY O'NEILL, TOM PANNE- :

BAKER, STEPHEN J. PAULIN, :  
JOSEPH P. PETROSKY, DAVID J. :  
PHILLIPS, JON J. PILLION, :  
DEANE POKODNER, FRED N. :  
PRESSLEY, SR., MARCEL :  
QUINTILLI, KATHY S. REAM, :  
JOSHALYN RENTAS, JERALYN :  
RETTEW, SUSAN I. RINTZ, :  
JAMIE ROBINSON, KRISTY S. :  
ROBINSON, BETH A. RUDENOS, :  
CAROL E. RUPP, JOSEPH :  
SALAKI, HAROLD SAMPLE, :  
SANDRA J. SAMPLE, REGINA :  
SCHEETZ, STEVEN SCHERRY, :  
ARCHIE E. SEATS, JR., BARBARA :  
L. SEATS, RICHELL SEE, PETER :  
B. SEIBERT, CHARLES SENFT, :  
JANE SEYFERT, JUDITH :  
SHAFFER, TIM SHAUB, JOHN :  
SHEAFFER, JOHN G. SHORB, JR., :  
MICHAEL C. SMITH, WAYNE G. :  
SMITH, LYNN SOLLENBERGER, :  
GREGORY T. SPANGLER, :  
JESSICA SPANGER, WILLIAM :  
SPANGLER, DENNIS A. :  
STAUFFER, JUSTIN STEINER, :  
THOMAS STEINER, BRAD :  
STROCK, JR., DONALD L. :  
STUMP, JERRY THOMPSON, :  
ROBERT L. TROMPETER, :  
THOMAS M. WAGAMAN, :  
JOSEPHINE WAGNER, :  
CHRISTINE WALK, THOMAS :  
WALTZ, DAVID WEAVER, :  
GERALD B. WEIGLE, TODD A. :  
WENTLING, LINDA P. WERT, :  
WILLIAM W. WHITE, III, BRYAN :  
WICKARD, DEBORAH ANN :

WILKIN, MARK C. WILLARD, :  
SAMUEL W. WILSON, PAMELA :  
V. WRIGHT, CINDY L. ZEAMER, :  
ALANA ZENTZ, DALE ZIMMER- :  
MAN, JOHN ZIMMERMAN and :  
KAREN ZOOK, :

Plaintiffs, :

vs. :

KELLOGG COMPANY, :  
Defendant. :

### **COMPLAINT**

Plaintiffs, by and through their counsel, IRA H. WEINSTOCK, P.C., state the following in support of their Complaint:

1. This action is brought to recover from Defendant unpaid wages and overtime compensation, as well as an additional amount as liquidated damages, costs and reasonable attorney's fees as provided for by the provisions of the Fair Labor Standards Act (hereinafter "the Act"), 29 U.S.C. §§ 201-219, specifically, Section 16(b) of the Act, 29 U.S.C. § 216(b). Further, Plaintiffs seek injunctive relief under the provisions of Section 17 of the Act, 29 U.S.C. § 217.

2. Subject-matter jurisdiction is conferred on this Court by both 28 U.S.C. §1337 and Section 16(b) of the Act, 29 U.S.C. §216(b).

3. Plaintiffs, at all times relevant to this complaint, are employees covered by the collective bargaining agreement in the following classifications: All production and maintenance employees, including but not limited to the following job functions: processing, packing, U & D and sanitation, and excluding professional, office and managerial employees. All Plaintiffs have individually and voluntarily consented in writing to join as Plaintiffs in this lawsuit as required by Section 16(b) of the Act, 29 U.S.C. § 216(b), and these written consents, which contain the addresses of all the Plaintiffs, are being filed collectively as an attachment hereto and are marked as "Exhibit A."

4. Defendant, Kellogg Company (hereinafter Kellogg), is a corporation doing business in the Commonwealth of Pennsylvania, with a business address at 2050 State Road, Lancaster, Lancaster County, Pennsylvania.

5. At all times relevant to this Complaint, Kellogg conducted various operations involving cereal manufacturing and packaging, food handling, quality and sanitation in Lancaster, Pennsylvania and employed the Plaintiffs.

6. In performance of its operation and business described herein, Kellogg was engaged in interstate commerce, within the meaning of Sections 3(b), 3(i), 3(j), 6(a), and 7(a) of the Act, 29 U.S.C. §§ 203(b), 203(i), 203(j), 206(a), and

207(a). As used in this Complaint, Kellogg is intended to include officers, managers, and/or supervisors of the Defendant.

7. At times pertinent to this complaint, Kellogg failed to comply with the Act in that Plaintiffs have worked for Kellogg in excess of the maximum hours provided by the Act, however, no provisions were made by Kellogg to pay Plaintiffs and no payments were made to Plaintiffs by Kellogg at the rate prescribed by the Act when Plaintiffs worked hours in excess of the maximum hours provided by the Act. Moreover, Plaintiffs have been forced by Kellogg to work for periods during which the minimum wage provided in the Act was not paid. Specifically, Plaintiffs worked for periods in which no payment whatsoever was made by the Defendant. All of the above enunciated actions of the Defendant are in violation of the Act.

8. Kellogg operates its business so that employees report for eight-hour shifts where they are required to clock-in before the work period begins. Kellogg requires all employees to have their uniforms on prior to starting work. Kellogg does not allow employees to wear their uniforms outside the plant and requires them to be in uniform upon starting shifts. Approximately seven to nine minutes per day are spent changing into or out of uniforms, however, employees receive no paid time for this period. Thus, Plaintiffs were working for the benefit of Kellogg

at all times when they were required to change into and out of their uniforms. The total hours Plaintiffs worked and were uncompensated for as well as the Plaintiffs' total monetary damages will be proved at trial since the information necessary to make such calculations are in the sole possession and control of the Defendant.

9. Plaintiffs seek not only compensation pursuant to the Act for all hours worked, but additional sums as liquidated damages as provided by the Act since Kellogg's violation of the Act was not in good faith or reasonable within the meaning of the Portal-to-Portal Act, 29 U.S.C. §259.

10. Kellogg's refusal to pay unpaid minimum wages and overtime due Plaintiffs and failure to discontinue violating the Act, has necessitated Plaintiffs to retain counsel to initiate and prosecute this Complaint. Therefore, Plaintiffs are also entitled to reasonable attorney's fees and costs as provided by the Act.

11. Kellogg's violations of the Act are continuing in nature; therefore, Plaintiffs seek injunctive relief as provided for under Section 17 of the Act, 29 U.S.C. § 217. Said injunctive relief is believed to be necessary in order to avoid additional violations of this Act.

WHEREFORE, Plaintiffs demand judgment in their favor and against Kellogg in an amount to be proved at the time of trial, said amount due Plaintiffs includes payment of minimum wages, overtime compensation, liquidated damages,



costs, and attorney's fees as provided for under the Act, and for such additional and such other legal or equitable relief as may be appropriate to effectuate the purposes of the Act.

Respectfully submitted,

**IRA H. WEINSTOCK, P.C.**

800 North Second Street

Harrisburg, PA 17102

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By: \_\_\_\_\_  
**IRA H. WEINSTOCK**